

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 9/15/21
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SEAN RODRIGUEZ,

Plaintiff,

-against-

UNITED STATES OF AMERICA,

Defendant.

20-CV-10619 (LTS) (BCM)

TREVOR GAYLE, et al.,

Plaintiffs,

-against-

UNITED STATES OF AMERICA,

Defendant.

21-CV-01166 (LTS) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

For the reasons that follow, the two actions captioned above shall be consolidated into the first-filed docket.

Both actions arise out of a motor vehicle collision that occurred on September 23, 2019 between a United States Postal Service vehicle driven by Carlos Cortez Lamar and a private vehicle driven by Sean Rodriguez in which Trevor Gayle and Shariff Landsmark were passengers. On December 16, 2020, plaintiff Rodriguez filed his complaint against the United States pursuant to the Federal Tort Claims Act (FTCA). On March 16, 2021, plaintiffs Gayle and Landsmark filed their complaint against the United States pursuant to the FTCA. On July 26, 2021, the United States filed a third-party complaint against Rodriguez. On September 13, 2021, the parties jointly requested that the Court consolidate these actions. (Dkt. No. 24.)

Where, as here, two actions involve multiple “common issue[s] of law or fact,” the district court may: “(1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay.” Fed. R. Civ. P. 42(a).

Consolidation of cases with common questions of law or fact is favored “to avoid unnecessary costs or delay,” *Johnson v. Celotex Corp.*, 899 F.2d 1281, 1284-85 (2d Cir. 1990), and to “expedite trial and eliminate unnecessary repetition and confusion.” *Devlin v. Transp. Comm’n Int’l Union*, 175 F.3d 121, 130 (2d Cir. 1999) (internal quotation marks and citations omitted). “The trial court has broad discretion to determine whether consolidation is appropriate.” *Johnson*, 899 F.2d at 1284.

Given that both cases arise out of the same motor vehicle collision; that all plaintiffs were in the same car and have sued the same defendant under the same statute; and that the parties have requested consolidation, it is hereby ORDERED that these cases be CONSOLIDATED for all purposes into the first-filed case, which is No. 20-CV-10619. Plaintiffs may (but are not required to) file a consolidated complaint within the time otherwise allowed for amending the pleadings. If they proceed on separate complaints, future filings shall bear both captions (as shown above), but shall display only the consolidated docket number, that is, No. 20-CV-10619. In either event, future filings shall be docketed only in 20-CV-10619. The docket in 21-CV-01166 will be marked closed.

For the reasons set forth above the Clerk of Court is respectfully directed to CONSOLIDATE these actions and to mark No. 21-CV-01166 as CLOSED.

Dated: New York, New York
September 15, 2021

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge